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OFFICE OF PETITIONS

In re Application of

Marc Tremblay

Application No. 09/583,097

Filed: August 2, 1999

Attorney Docket No. 33227/189003; P13691-DIV

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed April ~~30~~, 2008.

The petition is **granted**.

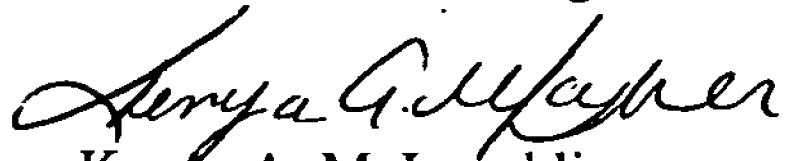
This application was held abandoned on January 6, 2008, after no reply was received to the non-final Office action mailed October 5, 2007. The notice set forth a shortened statutory period for reply of three-months from its mailing date. A Notice of Abandonment was mailed on March 12, 2008. The instant petition was filed on April 30, 2008. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded Technology Center 2100, GAU 2183 for further processing including remailing of the non-final Office action and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

A handwritten signature in cursive script, reading "Kenya A. McLaughlin".

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions